

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JUNE 26, 2007

Ordinance— An ordinance amending the Town Code to create a policy on Town responses to requests under the Virginia Freedom of Information Act.

BE IT ORDAINED by the Council for the Town of Herndon that:

1. The Herndon Town Code (2000), as amended, is amended and reordained by the addition of new §2-2, Freedom of Information Act Requests, as follows:

Sec. 2-2. Freedom of Information Act Requests.

(a) The town supports good faith, timely, and responsive compliance to citizens' request for public records under the Virginia Freedom of Information Act (§2.2-3700 and following, Code of Virginia) (the Act). The town needs to formalize, clarify, and unify its procedures in this regard better to carry out this policy and to prevent the ability through informal procedures of some individuals to place an unfair administrative and legal burden on the town through vague, intemperate, or redundant public records requests under the Act.

(b) This policy effectuates the Act. Nothing in this section varies or legally may vary the Act. In case of a conflict, the Act prevails.

(c) Citizens are requested to reduce to writing their formal requests for copies of or access to public records so that the requested records are identified with reasonable specificity. The town will respond to written or non-written requests for copies of or access to public records under the Act.

(d) Citizens must direct all formal requests for copies of or access to public records to the Public Information Officer. This Officer shall coordinate and manage responses to formal requests for copying of or access to public records under the Act.

(e) The Public Information Officer shall in written communication that meets the Act provide or render available non-exempt public records within five working days after the receipt of the request.

(f) The town shall charge for the actual town reproduction costs of public records provided to and at the formal request of the citizen. The Town Manager shall establish in writing, document in a public filing, publicize, and periodically adjust based on prevailing reasonable rates the Town's reproduction costs.

(g) The town shall charge the citizen a reasonable charge to cover town's actual personnel cost to access, search for, duplicate, and supply records subject to a formal request. The staff time for these services shall be the hourly rate of the employee, excluding fringe benefits. The town will not charge for time spent in redaction or supervision of the citizen's inspection and copying of the public records or for their preservation and safe keeping.

(h) The citizen requesting in a formal request copies of or access to public records may ask for an advance estimate of the town's costs for complying with the formal request for records. If the costs are likely to exceed \$200, the town will require the citizen to pay the estimated costs in advance before the town must provide access to or copies of the records subject to a formal request. If the town provided this advance cost estimate, the statutory period for response stops running until the citizen pays the estimate. The town and the citizen must make an equitable adjustment of such costs upon the provision of the public records.

(i) Where the request for public records is legally complex or raises legal questions, the town may charge the Town Attorney's hourly rate less fringe benefits for support of the handling of the formal request for copies of or access to public records.

(j) Nothing in this ordinance shall preclude the Town Manager, Town Attorney, or their respective staffs from informally responding to citizens without charge for reproduction or staff time to simple, day-to-day, or routine requests for access to or copies of readily available, concise, and discrete public information. Such requests are "informal requests" under the Act. All other requests under the Act are "formal requests." In case of doubt, the Town Manager may determine whether a request is a formal request or an informal request. The Town Manager's decision is final.

2. This ordinance shall be effective on and after August 1, 2007.